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# Follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his follow-up visit to the Republic of Ghana

The Secretariat has the honour to transmit to the Human Rights Council the follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, on his follow-up visit to the Republic of Ghana from 3 to 7 October 2015.

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# Follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in this context on his follow-up visit to the Republic of Ghana*

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* Reproduced as received.

# I. Introduction

1. The Special Rapporteur on torture and other cruel, inhuman, and degrading treatment or punishment, Juan E. Méndez, undertook a follow-up visit to the Republic of Ghana from 3 to 7 October 2015, at the invitation of the Government, with the support of the Anti-Torture Initiative of the American University Washington College of Law's Center for Human Rights & Humanitarian Law.

2. The purpose of the visit was to evaluate the progress made by the Government with respect to the implementation of recommendations from his 2014 report (A/HRC/25/60/Add.1) on his November 2013 visit to the Republic of Ghana.

3. The Special Rapporteur is grateful to the Government for the invitation to conduct follow-up, and emphasizes that it constitutes a good practice and an example for other States to follow.

4. During the four-day follow-up visit, the Special Rapporteur met with the Minister of Interior, the Chairman of the Prison Service Council, the Director-General of the Ghana Prisons Service (GPS), the Minister of Justice and Attorney General, high-level officials from the Ministry of Health and the Ministry of Foreign Affairs, the Chairman of the Mental Health Authority Board, and Director of the Accra Psychiatric Hospital. The Special Rapporteur regrets that representatives from the Police Services, including the Inspector General of Police or the Director of the Police Services, were not available for meetings. The Special Rapporteur visited the medium-security prison at Nsawam (Nsawam), the maximum-security prison at Ankaful (Ankaful), the Accra Psychiatric Hospital, and the Edumfa Heavenly Ministries prayer camp (Edumfa).

5. The Special Rapporteur thanks the Government for its willingness to engage in discussions at a high level and in a spirit of cooperation and constructive dialogue. He acknowledges the authorities' good will in providing unfettered access to places of detention in line with the terms of reference for fact-finding missions by Special Rapporteurs. The Special Rapporteur expresses disappointment and concern over attempts by employees of the privately-run Edumfa prayer camp to restrict access and to lead him away from certain parts of the camp.

6. The Special Rapporteur also met with representatives of United Nations agencies, the diplomatic corps and local NGOs, and convened a half-day Roundtable event with civil society. He thanks civil society representatives for their participation in this event and for their valuable assistance in monitoring and assessing the implementation of his recommendations.

7. Ghana remains at a critical stage in its development, both economically and in terms of living up to its international human rights obligations by advancing the fundamental human rights and dignity of its citizens. The Special Rapporteur welcomes the determination and commitment demonstrated by authorities at the highest level to reform aspects of the criminal justice system with a sense of urgency and to take measures to improve the situation of prisoners, despite the ongoing resource limitations. The extreme levels of overcrowding and dreadfully substandard conditions of detention observed in Ghana constitute cruel, inhuman, and degrading treatment or punishment, while the absence of an effective criminal justice system remains a core challenge. Nevertheless, the Special Rapporteur is hopeful that by capitalizing on the current political will and on the momentum generated by incipient reforms since his last visit, the State will be on its way to delivering on aspirations to implement a more humane approach to law enforcement, criminal justice, and corrections and to protect and fulfill the human rights of its most vulnerable constituents.

# II. Legal and Institutional Framework to Combat and Prevent Torture and Other Ill-Treatment

## A. The prohibition of torture in national legislation

8. Ghana's core participation in the Convention Against Torture Initiative 2014 – 2024, a global initiative for the universal ratification and implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention), is an important indication of its ongoing commitment to eradicate the scourge of torture at home and abroad. Nevertheless, the Special Rapporteur regrets that the offense of torture, as defined in the Convention, has not yet been introduced into the Criminal Code (Criminal Offences Act 1960), and urges the Government to accelerate efforts to ensure the domestication of the Convention by establishing torture as an offence in national law, adopt a definition that is in line with international standards, and ensure that the offence is punishable by appropriate penalties in accordance with article 4(2) of the Convention. During talks with authorities, he repeatedly heard that the absence of a definition of torture in national law is a major impediment to achieving progress in the realms of accountability and prevention.

## B. Monitoring and inspection of places of detention

9. Ghana has not delivered on its commitment to ratify the Optional Protocol to the *Convention* (OPCAT), which it signed in 2006. Last year, the Government stated that it would take steps towards ratification without further delay, and it is reported that the Cabinet approved legislation for OPCAT ratification in July 2015, which is currently pending approval by Parliament. The obligation to prevent torture and other ill-treatment constitutes a fundamental legal obligation, and the establishment of an independent National Preventive Mechanism (NPM) to monitor places of detention – in spite of financial constraints – is absolutely essential in view of current challenges.

10. While welcoming the role played by the Commission for Human Rights and Administrative Justice (CHRAJ) in seeking ratification of the OPCAT, the Special Rapporteur expresses particular disappointment that CHRAJ has abandoned its *de facto* prison monitoring mandate, and has not carried out visits to prisons since before his 2013 mission. In the aftermath of the Special Rapporteur's visit, CHRAJ renewed its commitment to intensify its responsibilities to ensure that the State lives up to its human rights obligations, including the eradication of torture. However, he is concerned that the body is unable to effectively fulfill its triple mandate of Ombudsman, Anti-Corruption Agency, and National Human Rights Institution, and in particular that of monitoring and ensuring the prevention of torture in places of deprivation of liberty, given its admittedly "woefully inadequate" budgetary allocations that have led to its experiencing "critical and systematic human, infrastructural, and logistical constraints."[1] Should CHRAJ be designated to serve as Ghana's NPM, significant changes would need to be implemented in order to ensure the effective discharge of its mandate and full compliance with the Paris Principles. The future NPM must operate on the basis of a broad legal mandate enabling it to visit, at regular intervals and unannounced, all places of detention, including privately-run institutions like prayer camps; to receive complaints and initiate prosecutions; and to publish and widely disseminate its findings and make recommendations to the Government. It must be endowed with an independent operating budget and sufficient human and

[1] CHRAJ, *Five Year Strategic Plan 2011-2015*.

technical resources. At the same time, NGOs must also be permitted to undertake regular monitoring of places of detention.

11. The Special Rapporteur regrets that he was not provided with information on whether the Police Intelligence and Professional Standards Bureau (PIPS) fulfills its mandate of visiting police stations to check on the conditions and treatment of persons in police custody. Given reports of the use of torture and other ill-treatment by police officers and the ostensible absence of accountability for such practices, he concludes that this mandate is not adequately fulfilled.

# III. Assessment of the situation

## A. Practice of torture and other ill-treatment

12. The Special Rapporteur is particularly troubled by reports that instances of torture and other ill-treatment occur with some frequency during the apprehension, arrest, and interrogation of suspects, and particularly as a means to extract confessions, by police. During visits to Nsawam and Ankaful, he received multiple reports from detainees that they had been subjected to beatings, blows – including with canes, batons, wires, and stick – punches, and slaps, in the early hours and days following their arrest and while being interrogated. A number of inmates reported having been forced to sign confessions they could not read. Two persons reported having been kept in police cells for one month and 14 days respectively and subjected to multiple beatings. The Special Rapporteur expresses grave concern over these allegations, which have been corroborated by frank discussion with authorities and reliable information from civil society, according to which the police are the main perpetrators of torture.

## B. Complaints mechanisms and investigations

13. The Special Rapporteur regrets that he was not presented with recent statistical data about allegations of torture and other ill-treatment by law enforcement, or about results of investigations, prosecutions, and penalties imposed on perpetrators. According to some statistics, the PIPS (which is tasked with receiving and investigating complaints about police brutality and human rights abuses and making recommendations to the Inspector-General of the Police and the Criminal Investigations Department) has received nearly 2,000 complaints in 2013 and 2014, and dismissed or sanctioned at least 400 officers in the period 2013 – 2015, with chief complaints being police misconduct, unprofessional handling of cases, including undue delay in investigation, and unfair treatment. Nevertheless, civil society has described the work of PIPS as "completely opaque."

14. The Government indicated that it believes most cases continue to go unreported, with prisoners "suffering [abuses] in silence" and not reporting cases of mistreatment for fear of reprisals or worsening their situation. Although the Government reported successes in efforts to sensitize law enforcement officials and in raising public awareness about complaints procedures, the absence of specific data on complaints of police brutality and mistreatment is troubling. Plans by the Ministry of Interior to establish an Independent Police Complaints Commission to complement the work of PIPS would be a welcome development.

15. The Special Rapporteur welcomes reports that the CHRAJ, together with the African Commission on Human and Peoples' Rights (ACHPR) and the African Policing Civilian Oversight Forum (APCOF), recently trained police officers on techniques for investigating torture in the context of the effective implementation of the Luanda Guidelines (Guidelines

on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, which were adopted in April 2014). The Government must ensure that the Guidelines are promptly and duly implemented in local policy and practice, embark on a comprehensive programme of training sessions – with the support of partners from civil society, regional and international organizations, and the diplomatic corps – and ensure that it keeps interrogation rules, methods, and practices, as well as arrangements for the custody and treatment of detained persons, under systematic review in compliance with Article 11 of the Convention.

16. Article 22(1) of the Prisons Service Act provides that prisoners can complain of assault, mistreatment, intimidation, neglect, non-performance of duties, and other misconduct by prison officers. The Special Rapporteur regrets that he did not receive any statistical information regarding such complaints, and reaffirms his previous conclusion that there appear to be surprisingly few complaints given the deplorable conditions experienced daily by nearly 15,000 prisoners nationwide. No prosecutions have been reported under Article 25f, which provides for penalties of up to five years for "any prison officer who in any way tortures, or subjects to cruelty, any prisoner."

17. There is a lacking sense of urgency to build adequate oversight mechanisms like CHRAJ, which is statutorily empowered to receive and investigate complaints of violations of fundamental human rights and freedoms protected under the Constitution – including the right to be free from torture and other ill-treatment – and to seek remedies, including administrative sanctions, in respect of such acts or omissions (with respect, inter alia, to the GPS and the Police Service). The Special Rapporteur was particularly troubled by CHRAJ's claims that it does not receive complaints of torture or other ill-treatment by the police because these practices do not occur. The Government has a fundamental legal obligation to ensure prompt, independent, and impartial investigations into all alleged acts of torture and other ill-treatment, to prosecute those responsible and impose administrative and judicial penalties when appropriate, as well as to ensure that victims receive adequate reparations and are not subject to reprisals. A zero-tolerance policy for torture and other ill-treatment and the vigorous pursuit of accountability are essential to discouraging law enforcement authorities from engaging in coercive interrogation techniques and other forms of mistreatment.

## C. Legal safeguards and criminal justice reform

18. The implementation of fundamental legal safeguards to prevent torture and other ill-treatment in practice, together with criminal justice system reforms to facilitate judicial management and the prompt and fair disposition of cases, will go a long way in preventing mistreatment and facilitating the improvement of prison conditions. The Special Rapporteur received repeated complaints about the failings of the criminal justice system and the lack of effective safeguards from inmates, which were corroborated by information received from civil society and the Government. It continues to be the case that thousands of inmates languish in prison – whether due to the absence of safeguards and prolonged detention on remand or exceedingly lengthy sentences – and remain at a perpetual risk of being subjected to inhumane conditions and treatment.

19. The Special Rapporteur remains particularly concerned by the broad powers of arrest held by police officers under the Code of Criminal Procedure (i.e., without a warrant and on grounds of "reasonable suspicion" that an offense has been or is about to be committed). The Constitution provides suspects the right to be informed immediately of the reasons for detention; the right of access to a lawyer of their choice; the right to inform a family member of the fact and location of arrest; and the right to appear before a magistrate within 48 hours. However, these rights are most often not guaranteed in practice. Effective methods for speedy registration, reception, and documentation of detainees (including

tracking and filing systems), are largely absent, creating situations in which cases are "lost" and detainees are "forgotten" on remand. Similarly, while the right to habeas corpus is guaranteed under the Habeas Corpus Act of 1964, detainees are rarely able to effectively and expeditiously challenge the lawfulness of their detention as a result of judicial ineffectiveness and a scarcity of legal aid resources. The Special Rapporteur welcomes Government proposals for the creation of a national electronic database on persons deprived of liberty with the support of the Ghana Investment Fund for Electronic Communications.

**Judicial management and case disposition**

20. The Special Rapporteur is encouraged by the reactivation of the "Justice for All" programme, under which special traveling courts are set up to adjudicate remand cases – including expired warrants – in 2015. He thanks the Government for the information that at the time of his follow up visit, the programme had disposed of cases in the Western, Volta, and Eastern regions, resulting in the discharge or release on bail of up to 100 prisoners. He welcomes reports that the programme is currently continuing its work in other regions of Ghana, and urges authorities to continue efforts to clear up the black-log of remand cases with a view to ensuring access to justice and decongesting prisons. The Government is advised to update the programme's terms of reference and widen its scope beyond cases of pretrial detention, so that it also covers appeals and cases of prisoners serving lengthy sentences. Plans to establish permanent secretariats in Ghana's regions to assist with the implementation and management of the programme are auspicious.

21. The Special Rapporteur commends the Government for the inauguration of a High Court on the premises of the Nsawam prison in July 2015. This is a pilot project designed to reduce overcrowding by facilitating the disposition of cases, particularly those of remand detainees, and appeals. Establishing such courts on prison premises is useful due to the logistical difficulties otherwise posed by transportation from prisons to courts. The Special Rapporteur understands that the High Court at Nsawam will be a multi-purpose court exercising original jurisdiction over all criminal matters. He notes that at the time of the visit, Nsawam's population of remand prisoners stood at around 8%, a figure below the national average. Accordingly, the real impact of such a court in reducing the numbers of remand detainees will be primarily seen when the project is expanded to build remand or high courts on the premises of other prisons housing greater numbers of remand detainees. Measures to support the improvement of judicial case management, including the implementation of a "fast-track system" for less serious cases and ensure their swift progress through the criminal justice system, and of a rapid appeals process for the review of convictions and sentences, should also be pursued. Similarly, a project to review sentences that are being served, with a view to implementing clemency through commutation, pardon or other means in deserving cases, would certainly help reduce the overcrowding that currently affects Ghana's prisons.

**Sentencing policies and non-custodial measures**

22. Ghanaian sentencing policies continue to result in excessively lengthy custodial sentences for many, if not most, inmates. Currently, the narrow scope of available sentences encompasses absolute or conditional discharge, fines, probation, imprisonment, and the death penalty, while reports indicate that the application of available non-custodial measures like adult probation, is non-existent. A new Non-Custodial Sentencing Policy produced by the Ministry of Interior in 2014 and presented to the Chief Justice in February 2015 was under consideration by the Ministry of Justice at the time of the visit. The Special Rapporteur urges the Government to enact the relevant statutory provisions and begin implementing non-custodial sentencing options – such as community service orders,

suspended sentences, and conditional discharge – as a matter of urgency to reduce overcrowding in prisons and facilitate inmates' reintegration into society.

23. The Special Rapporteur welcomes the recent development of the "Ghana Sentencing Guidelines" and hopes that despite their non-binding nature, the Guidelines will promote greater consistency, remedy undue harshness and inequities in sentencing, and encourage more reasonable use of judicial discretion. The imposition of long sentences for non-violent offenses, such as a minimum of five and ten years' imprisonment for the use and possession of narcotic drugs, respectively, under the Narcotic Drugs (Control, Enforcement and Sanctions) Act 1990, is troubling and contributes significantly to prison overcrowding (with 90% of remand detainees in some cases reportedly convicted of possession or consumption of 'Indian hemp'). The Government reports that the Act is under review, with plans to provide for classifications and consideration of amounts in determining the purpose of possession. Such a review would be an encouraging development. Mandatory minimum sentences for lesser, non-violent offences should be reduced or eliminated, and time spent on remand should be taken into account in sentencing. Greater reliance on alternative dispute resolution measures also has the potential to help unburden the encumbered criminal justice system.

24. The Special Rapporteur welcomes reports that President Mahama granted amnesty to 2,004 prisoners in 2014 and 2015, but is concerned by claims of discrimination and corruption in this process. Recalling that post-sentencing disposals are not an optimal solution for reducing overcrowding in prisons, he urges the Government to extend eligibility for remission, commutation of sentences, parole, or pardon to inmates serving long sentences, additional to those on death row and serving life sentences. While the President recently called on the Director-General of the GPS to present a proposal for the remission of sentences for prisoners who have demonstrated good behavior and for elderly and sick inmates, a review of non-violent offenses for which bail is not available has not occurred despite its potential to help reduce the number of remand prisoners. Parole remains unavailable despite its contemplation by the Constitution and despite the Government's indication that it seeks to establish parole boards and introduce measures to grant parole to prisoners with good chances of reintegration and solid social support networks. Such measures, if and when implemented, must be backed with appropriate levels of support and staff training.

**Right to Counsel and Legal Aid**

25. The right to counsel is guaranteed in the Constitution and a fundamental safeguard against torture and other ill-treatment. However, it is not effectively implemented in practice as the vast majority of Ghanaians in the criminal justice system are indigent and remain unable to exercise this right to access a lawyer, let alone from the moment of apprehension and at all stages of the investigation process. The Ministry of Justice reports that 90% of defendants in cases heard by the high courts benefit from assistance of counsel, which is required for first-degree felonies at the high court level; however, this is not a sufficient guarantee for the vast majority of defendants, whose cases are adjudicated only by district or circuit courts.

26. The Legal Aid Scheme of 1997 (Act 542) provides the right to legal assistance to persons charged with capital offenses punishable by death or a life sentence. The scheme should be expanded to cover all criminal offenses. Although it aspires to provide free legal assistance to indigent defendants, this is not a requirement mandated in legislation. The Scheme became independent from the Ministry of Justice and retained control over its budget pursuant to a Constitutional Review Commission decision in 2012, but continues to be woefully underfunded and understaffed, despite an increase in staff from 40 to 70. There are currently only 16 public defenders comprising the Legal Aid Scheme, divided amongst

15 district offices and 10 regional offices, serving more than 26 million people. The Special Rapporteur welcomes initiatives designed to supplement the funding of the Scheme, such as the monetary donation by the United Nations Development Programme in 2014, and encourages further donations, partnerships, and trainings, as well as public education campaigns, in view of survey reports that at least 69% of the population is not aware of the option of legal aid.

27. The Special Rapporteur learned that the GPS has established a Paralegal Unit, with the support of the British High Commission, at Nsawam, to provide legal assistance to indigent detainees awaiting trial. Nevertheless, reliable information on the number of cases undertaken by paralegals and their outcomes is lacking. Such a Unit has also reportedly been established at the GPS Headquarters, but there are no reports on the outcome of plans to set up units at all central prisons. Accounts by both prisoners and civil society indicate that legal aid and paralegal services fail to reach most inmates. The Special Rapporteur learned that a Draft Bill on Paralegal Services is currently in the works, but did not obtain additional information on its content.

**Confession Statements**

28. The Special Rapporteur reiterates his call on the Government to amend the Evidence Act 1975, which does not expressly exclude evidence obtained under torture from proceedings, to bring it in line with Article 15 of the Convention. The Act renders inadmissible as evidence statements made in the absence of "an independent witness (other than a police officer or member of the Armed Forces) approved by the accused," who must state that the confession was made in his or her presence, and not under duress. The Special Rapporteur regrets that he has not received statistics on the application of the Act or information as to cases where courts have excluded confessions obtained under torture or prosecuted and punished officials for extracting confessions under torture. This is of particular concern in view of reports about the use of torture and other ill-treatment by police to extract confessions. Although the Attorney-General reiterated that confessions alone are not used to secure convictions, that corroborating evidence is required, and that a "mini-trial" takes place to determine the admissibility of confessions, the Special Rapporteur is concerned by the non-fulfillment of these guarantees in practice. Multiple inmates reported that they were convicted on the basis of coerced confessions, prevented from reporting their grievances before the judge, and denied opportunities to dispute the admissibility of confessions in court, or exercise their right to appeal their convictions. Information received from civil society corroborates these allegations and reveal that courts do not initiative ex officio investigations when there are reasonable grounds to suspect torture or other ill-treatment, and that there is a pervasive inclination on the part of judges summarily to dismiss allegations of torture.

**Independent medical examinations**

29. The right to independent medical examinations continues to be denied in practice. The Special Rapporteur regrets that he has received no indication that independent medical examinations by qualified forensic medical doctors – without interference by law enforcement personnel or prosecutors – are provided as a matter of routine, whether at the time of arrest and during the police investigation stage, by court order, upon transfer and admission to places of detention, or upon request. Police Service instruction 171 has not been revised to remedy the fact that, when provided, medical examinations are not independent; in fact, if they take place at all they are conducted under the control of government medical personnel and in the presence of police officers. The almost complete absence of forensic experts makes it essential to meet the need for training on the assessment of torture and other ill-treatment in accordance with the Istanbul Protocol.

## D. Prisons Service

30. The GPS reports that 14,491 inmates are currently incarcerated inside the country's 43 prisons, despite an authorized holding capacity of 9,875 prisoners. This amounts to 47% overcrowding (or 147% over-capacity; most penologists consider 120% over capacity to be "critical") – figures that are greater than in November 2013. 11,757 inmates are convicted prisoners while 2,734, or approximately 19%, are remand detainees. The rate of remand detainees has dropped from an estimated 20–25% in 2013, but there is some inconsistency in reported figures, with other Government estimates reporting the rate of remand detainees as amounting to 25% or one third.

31. The rates of overcrowding in some prisons (including Kumasi, Sunyani, Koforidua, Navrongo, Tamale, and Sekondi) range from 50% to 300% (150 to 400% over capacity), leading to severe health and hygiene problems that threaten not just inmates and officers, but also outside communities. Official figures are based on the number of beds available in relation to the prison population, underestimating the true rate of overcrowding. The Special Rapporteur recalls the European Committee for the Prevention of Torture's recently articulated minimum standards for personal living spaces for prisoners, according to which at least 4 square meters of living space per prisoner in a multi-occupancy cell are required.

32. The Special Rapporteur congratulates the GPS for its honest appraisal of challenges it encounters with regards to conditions in prisons, and with regards to the plight of remand prisoners, who are sometimes kept in custody illegally for years with expired or faulty warrants. He welcomes the Service's commitment to "initiate the necessary procedures to enable [it to] take over the administration of remand prisoners,"[2] and urges the Government to bring the responsibility for remand prisoners under its authority, rather than that of the Police Service, as a way to ensure that all remand detainees are brought to court in a timely manner and not detained beyond the expiry of their warrants.

33. The shift from a punitive penal system to a more modern approach incorporating reform, rehabilitation, and reintegration of prisoners, noted in November 2013, continues to inspire the GPS's endeavors, and there is a renewed impetus to implement a holistic approach of restorative justice and ensure that prisons are no longer regarded and treated as facilities "where criminals are dumped." Efforts to educate the public about deplorable prison conditions, prisoners' fundamental rights, and the need to foster their rehabilitation and reintegration into society – premised on the important understanding that "today's prisoner is tomorrow's neighbor" – are praiseworthy. Prison conditions have gained the attention of policy-makers, including President *Mahama*, who became the first sitting Ghanaian president to visit a prison (Nsawam) in July 2015, and were the subject of a parliamentary debate in the same month. While the Special Rapporteur welcomes the Government's pledge to provide for 50 million additional GHS for the 2016 fiscal year to improve infrastructure in prisons to expand and renovate facilities, he notes that adequate reform will require sustained, long-term budgetary allocation and technical and human capacity-building, particularly to achieve the goals of refurbishing outdated and dilapidated prison infrastructure; urgent improvement in delivery of healthcare services and sanitation; the development of strategic partnerships; and concerted implementation efforts.

34. Nevertheless, chronic infrastructural and resource deficits, combined with a dysfunctional criminal justice system, plague the penal system and give rise to violations of fundamental human rights. The Prisons' Service 2015 – 2025 Ten Year Strategic Plan acknowledges the severe shortcomings of the prison system, which result in inhumane living conditions and the denial of prisoners' fundamental human rights, and references the

[2] Ten-Year Strategic Plan, 2015 – 2025.

need to live up to the standards articulated in the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). The Special Rapporteur particularly welcomes the Strategic Plan's comprehensive and holistic approach to reform, which identifies the need for improvement in the Service's organizational structure, human resource management, strategic planning and policy implementation measures, as well as vast improvement in conditions of services and training for staff. Additional measures requiring significant improvement include methods for the classification of prisoners; nutrition; and educational and work opportunities, including vocational training. Reforms of aspects of the criminal justice system will be essential to reduce and manage overcrowding, decongest prisons, and improve detention conditions and the treatment of prisoners. Greater cooperation between the Ministries of Justice and of the Interior, the courts, the Police Service, and the GPS, and the Social Welfare Department under the Ministry of Employment and Social Welfare, is required to facilitate the implementation of reforms and alleviate the plight of prisoners.

35. The Special Rapporteur has learned of the launch of Project Efiase, which aims to solicit financial support, donations, and partnerships from stakeholders in the private sector, civil society, and the diplomatic community, in view of the fact that "Government alone cannot solve all the challenges confronting the GPS, which have been compounding since colonial times from one administration to another."[3] While the Special Rapporteur welcomes the fundraising initiative as a useful means of generating income and capacity to supplement Governmental allocations, he emphasizes that the Government retains sole responsibility for the treatment of prisoners under international law, including living conditions and the provision of services in detention. He encourages non-Governmental stakeholders to offer support and fruitfully engage in partnerships with the Government through Project Efiase.

## E. Conditions of Detention

36. The In the Nsawam medium security prison (men's section), which has a 750 – 800 person capacity, the Special Rapporteur found a total of 3,449 inmates (2,875 convicted, 297 on remand, and 126 in death row), at a staggering rate of 431% over capacity. Transfers of prisoners to the maximum security prison at Ankaful and to nearby open camp prisons have commenced recently, but appear to have had little or no impact in alleviating overcrowding. The follow-up visit could not ascertain the existence of efforts to identify low-risk prisoners in central prisons and relocate them to open and farm camp prisons, or to develop halfway houses, community-based restitution programmes, or work release centers.

37. The Special Rapporteur learned that authorities make an effort to separate detainees on remand from convicted prisoners into separate blocks, although extreme overcrowding and lack of adequate classification procedures often make separation impossible in practice. Plans for the building of a new remand block in 2016, while welcome, must not substitute for undertaking meaningful reforms to the criminal justice system, particularly as regards the situation of remand detainees.

38. The 126 inmates on death row are housed in a separate block and isolated from the rest of the population without access to the common yard, but they are permitted to move around freely within the block. Inmates in other blocks are permitted to mingle and have access to the yard for exercise. During the visit, on a Sunday, religious services were underway and appeared to be well-attended. Reports that the prison ministries and faith-

[3] Ghana Prisons Service, Chairman Wengam Unveils Plans for a New Prison Service.

based groups are active, with the former planning to set-up halfway houses for returning prisoners, are welcome.

39. One block visited housed around 615 persons, mixing remand detainees and convicted prisoners. The numbers of prisoners in all the cells far exceeded the number of available beds, with 40 prisoners sleeping in a cell with only 20 beds, which were arranged in extremely cramped bunks, in one case. Those without access to beds sleep on the floor on thin sheets or blankets. Cells are locked from 4:30 PM to 6 AM daily, and electricity access, if it exists at all, is sporadic. The Special Rapporteur also heard troubling reports of water shortages, including the fact that donated water pipes were broken and never repaired.

40. Inmates' most common complaints concerned excessively long sentences and time spent on remand, with some reporting periods of up to five, six, or seven – and in two cases, 10 and 14 – years on remand. One prisoner reported having only been brought before a judge once during three years on remand. Another reported having spent 8 years in prison following a conviction for stealing from his employer on the basis of a forced confession, and then explained that prisoners are left to "grow old" in the system and that they begin to "act out" due to a pervasive sense of hopelessness and frustration. The Special Rapporteur met a 79-year old inmate who was blind and relied on his fellow prisoners for assistance with all of his needs. Although some were aware of the possibility of lodging complaints with the prison authorities, they reported that no meaningful action was taken in response.

41. Ankaful Maximum Security Prison was commissioned in 2011 to remedy overcrowding by housing prisoners serving long sentences (i.e., 20 – 125 years), usually for first class felonies. At the time of the visit, it housed 888 prisoners, including 65 foreigners, at about 44% capacity of its 2,000 person occupancy level. The Special Rapporteur welcomes the growth in operational capacity since November 2013, when only 343 inmates were housed at the facility. He learned that the second phase of the building of Ankaful has commenced, and is expected to be completed in two years' time. The Government is prioritizing the construction of new housing for officers, which is required to allow for the housing of additional inmates. Authorities aim to achieve a ratio of 500 officers to 2,000 inmates. There are currently only 130 officers stationed in Ankaful. It remains imperative that the second phase of construction be completed in a reasonable time.

42. Prisoners' movement is restricted to their blocks, which feature open yards. Inmates have access to the common yard three times per week, for a minimum of 2 to 3 hours. Although each of the 9 or 10 inmates housed in each cell visited had beds, the minimum standards for personal living space per prisoner are not being met, and prisoners complained of not having sufficient ventilation. Separate washing facilities reportedly exist for Muslim prisoners. The authorities stated that one paralegal and one prison officer assist prisoners with drafting appeals and submissions to courts, although the frequency and regularity of their services could not be ascertained. Regrettably, the facility is already showing some signs of deterioration, despite its recent construction and its operation at less than 50% capacity.

**Food**

43. The Special Rapporteur recalls the fact that in 2012 the Government raised the food budget threefold to provide for GH¢ 1.80 (.45 US cents) per inmate per day, and welcomes the President's indication that the Government is prepared to review this allocation "in due

course."[4] The current budget remains too low to provide prisoners with sufficient and nutritionally balanced food. At both Nsawam and Ankaful the Special Rapporteur received complaints about the poor quality of the food, which consists of porridge in the mornings and thin soups or *banku* (corn or cassava dough) for lunch and dinner and, occasionally, rice and beans at Ankaful; at least one prisoner in each facility complained about insufficient food. The authorities at Ankaful reported no food shortages and the existence of an agricultural programme, including an on-site vegetable patch; however, prisoners complained about the lack of fresh vegetables. The Special Rapporteur regrets that the Government has not yet established an independent body under the Ministry of Health to regulate and improve the quality of food, per his recommendation.

44. The "Agric" sector of the GPS, which comprises of 21 farming stations throughout the country, remains inadequately equipped and resourced, experiences seasonal shortages of food supplies, and suffers from very low levels of agro processing, dependency on rain-fed agriculture, inability to buffer harsh climatic changes, and chronic post-harvest losses. Although the GPS stated that, with adequate irrigation and machinery, it could increase its yield and provide for all of its cereals and vegetable needs, it found that it was still not in a position to embark on the kind of large-scale production required to do so. To this effect, it intends to embark on a mechanization project and a Public Private Partnership (PPP) programme designed to foster the large-scale production of maize, oil palm, and livestock. The development of partnerships with the Ministry of Agriculture and the private sector with a view to obtaining resources, expanding the farming program to more prisons, offsetting food costs, and providing better nutrition, is also encouraged.

**Medical care and sanitation**

45. The Special Rapporteur regrets that there have been no improvements regarding access to and quality of healthcare services in prisons. While Prison Regulation 134(1) requires medical officers to attend to prisons on a daily basis, the Service does not presently employ even a single medical officer. The Service reports that it employs a number of health aides, only "a few" nurses, and "a handful" of medical assistants, and that prison infirmaries lack the requisite medical equipment and personnel to provide even "basic first aid." The Government faces a serious inability to recruit and retain healthcare personnel, and particularly mental health workers; the lack of essential medication, medical equipment, and ambulances remains pervasive.

46. The Special Rapporteur learned that the Nsawam infirmary is run by a full-time physician's assistant, with visits by a Government-sponsored physician taking place at irregular intervals. The prison did not have an ambulance: if prisoners must be transported to hospitals, officers' private vehicles are used. Inmates continue to suffer from conditions that are preventable and treatable. Forty-six inmates were in the infirmary at the time of the visit, reportedly suffering from respiratory tract infections, skin diseases, malaria, tuberculosis (TB), and HIV/AIDS, and authorities reported that an average of 40 to 60 inmates receive outpatient care daily. Routine screenings upon entry are not provided, despite the theoretical existence of a screening process. Nsawam's diagnostic center and operating theatre were not operational. Although the authorities claimed that there was no shortage of medication, inmates interviewed complained that paracetamol is the only medication prescribed, if any is prescribed at all. They further reported a pervasive lack of medical attention and, in some cases, that officers demand payment in exchange for transferring inmates to hospital. Recent statistics on deaths in custody were not provided (in 2012, the most recent survey available, the Government reported 94 deaths in custody, all

[4] Ghana Prisons Service, Project Efiase.

from natural causes including malaria, TB, and HIV/AIDS). However, at least one prisoner reported that it is not uncommon for inmates to die in prison.

47. Ankaful employs two full-time nurses who work from Mondays to Saturdays and most serious cases are transferred to hospital. In the infirmary, the Special Rapporteur observed one patient who had suffered from a stroke and appeared to require more extensive medical attention than available. Authorities reported having one vehicle for transport to hospital in lieu of an ambulance. The only medicines that could be seen in the dispensary were paracetamol and blood tonic, and records of regular medical examinations of prisoners upon entry were not provided.

48. The Special Rapporteur acknowledges the implementation of a specialized medical outreach project in April 2014 at Nsawam Prison, whereby several mobile van clinics provided free medical examinations and screenings to inmates, under the auspices of the Ministry of Health. Such provisional measures, while necessary and welcome by way of emergency interim services, cannot be used in place of the development of well-funded, staffed and well-equipped infirmaries, or the provision of medical care in line with minimum international standards in all places of detention. He urges the Ministry of Health to deliver on its commitment to deploy a resident physician and nurses, to refurbish the surgical theatre at, and provide ambulances to, Nsawam, and to implement such measures throughout the country.

49. The Ministry of Health reported that the level of staff competence is generally inadequate to meet the needs of large prisons, and that referrals to hospitals are complicated by transport problems, which often means that prisoners do not receive treatment. The Ministry does not provide most medicines directly to prisons: these are rather purchased by the GPS directly from Central Medical Stores, oftentimes on credit. Medication for HIV/AIDS and tuberculosis is provided for free by the Ministry. Under the National Health Insurance Scheme, prisoners are automatically classified as indigent, but nevertheless required to individually register for the Scheme. While the Special Rapporteur acknowledges periodic initiatives by the Ministry of Gender, Children and Social Protection in collaboration with the National Health Insurance Authority to register inmates, he finds that the coverage ought to be extended automatically to all detainees in the State's custody. He notes with great concern that, as acknowledged by authorities interviewed, the Service lacks the necessary funds to pay for the renewal of the National Health Insurance premium for both inmates and officers, which threatens to prevent them from accessing services in general hospitals; and that existing credit arrangements remain tenuous as institutions continue to withdraw, or threaten to withdraw, services to inmates due to unpaid bills. The prevalence rate of TB and HIV in prisons remains alarming, and partnerships, such as that between groups like the Planned Parenthood Association of Ghana and the GPS, to tackle current challenges are welcome.

50. Lamentable physical conditions, lack of resources, and overcrowding result in extremely poor sanitation and hygiene conditions in prisons, which lack even "basic toiletries like soap and disinfectants," according to the Prisons Service Council. The Special Rapporteur heard complaints of deplorable sanitation, bedbugs, and the spread of diseases. At Nsawam, as few as four showers existed per block, with inmates reportedly permitted to take one shower per week; showers frequently do not work, and buckets of water are used instead. Those with access to a toilet must share it with more than 100 others, and toilets often overflow with excrement. The delegation was troubled to hear reports that it is not uncommon for prison officers to contract diseases, which in a few cases have led to loss of life.

**Work and educational opportunities and recreation**

51. Work opportunities and vocational training, including tailoring, carpentry, masonry, and block-laying, are sparse and available for less than 10% of prisoners due to a lack of resources like tools and equipment, the deplorable state of workshops and physical infrastructure, and an absence of capacity-building and training for personnel. At Nsawam approximately 40 to 50 prisoners work in shops at any given time, with greater demand for work than can be accommodated. At Ankaful, the Special Rapporteur observed 6 prisoners working in a tailoring workshop and 20 in the kitchen, with an additional 20 "agric" workers reported. Authorities plan to phase in additional vocational training workshops during the second phase of building. The criteria for selecting workers could not be clearly discerned, with some indications that good conduct is considered.

52. The Special Rapporteur learned that only a handful of prisoners benefit from educational programmes within the prison system, although the Ministry of Education plans to introduce formal education courses, including a tertiary institution for distance learning. Although the education unit at Nsawam has been slightly expanded, with at least 7 prisoners having completed the *West African Senior School Certificate Examination*, poor conditions and a lack of learning and teaching materials remain prohibitive. Initiatives to provide ICT training to both officers and prisoners are welcome developments. The Special Rapporteur spoke to two inmates who received schooling in Nsawam, and two more who expressed a desire to attend school but could not be accommodated. At Ankaful, inmates complained of not being allowed to keep books other than the Bible. The provision of educational and work opportunities, including sustainable training programmes, is essential to the rehabilitation and reintegration of prisoners. The Government is encouraged to allocate funds, build capacity, and partner with NGOs, churches, and other groups to obtain donations and facilitate the development and implementation of relevant educational and vocational training programmes.

**Discipline**

53. The Special Rapporteur is concerned by the fact that provisions of the Prisons Service Act 1972 have not been amended to explicitly prohibit the use disciplinary measures that are illegal under international human rights law and, in particular, the use of corporal punishment in the form of "no more than fifteen strokes of a light cane;" the reduction of food for up to seven days; and hard labor and solitary confinement for up to 28 days. In this context, he reminds the Government that the newly revised Nelson Mandela Rules (Standard Minimum Rules for the Treatment of Prisoners) expressly prohibit the use of corporal punishment and other restrictions or disciplinary sanctions that amount to torture or other ill-treatment, including prolonged or indefinite solitary confinement (Rule 43).

54. The Special Rapporteur inspected isolation cells at Ankaful and learned that isolation is rarely used as a punishment, and typically not for longer than two or three days. At Nsawam, cells originally built for the purposes of isolation are used to house prisoners due to the overcrowding. Internal disciplinary procedures typically involve the constitution of an ad hoc panel for a hearing, with final decisions being issued by the Prison Commander. Inmates can reportedly appeal decisions to the director of prisons, but these are not otherwise subject to review by a court or higher administrative panel. Statistics on the outcomes of disciplinary procedures were not provided, but authorities reported that prisoners are largely cooperating. The loss of remission (reduction of sentences by up to one third for good behavior) appears to be more frequently used as a disciplinary measure.

55. Prisoners typically reported positive relations with prison guards, with sporadic complaints that guards were disrespectful, verbally abusive and, in one case, violent. Standing Orders (1960) of the Prisons Service permit "privileged" ("Special Class")

prisoners to supervise the work of other prisoners. Authorities at the prisons visited denied reports of appointing "blackcoats," or prisoners selected to mete out punishment on others under the authority of staff, although independent reports indicate that the use of blackcoats to discipline prisoners that are deemed "recalcitrant," or to humiliate new arrivals, including by pushing, heckling and caning, continues. One inmate at Ankaful identified himself to the Special Rapporteur as the elected block leader, tasked with resolving "petty disputes" between prisoners, but did not identify as a blackcoat. The Special Rapporteur recalls that authorities have an obligation to take effective steps to prevent and remedy prisoner-on-prisoner abuse, and to ensure that prison officials are sensitized to the fact that prisoners must not be given any disciplinary authority over other inmates.

**Family visits**

56. At Nsawam Prison, inmates have the right to receive one weekly visit of around 20 to 30 minutes, while at Ankaful they are permitted one visit every two weeks for up to one hour. Children under 18 continue to be prohibited from visiting absent special requests. The Special Rapporteur regrets that visits continue to be monitored closely by prison staff and that spaces and amenities for visits remain cramped and have not been upgraded. He welcomes the GPS's recent partnership with MSM communications, which intends to introduce telecom services in some prisons to allow inmates to communicate with families at no cost. Plans by the GPS to gradually introduce conjugal visitation rights in prisons are also welcome.

## F. Death penalty

57. It is reported that the President has commuted the death sentences of 21 and 14 inmates to life imprisonment in 2014 and 2015 respectively, which has led to the reduction of the number of people in death row to 129 as of December 2015. However, it is disappointing that although no new executions have been carried out, at least nine death sentences have been imposed since the Rapporteur's last visit. The Government's plan to put to a referendum recommendations of the Constitutional Review Commission that require changes to the Constitution, including the removal of the death penalty, were not implemented in 2014 or 2015.

58. The Special Rapporteur draws the Government's attention to the March 2014 judgment of the UN Human Rights Committee in the case of Dexter Johnson v. The Republic of Ghana (CCPR/C/110/D/2177/2012), which holds that the imposition of the mandatory death penalty for murder is a violation of the right to life. He strongly urges the government to implement the recommendation of the Constitutional Review Commission to abolish the death penalty to implement an official moratorium on the death penalty, and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, on abolition of capital punishment.

## G. Juveniles

59. The Special Rapporteur learned that separation of juveniles on remand from adults is not always assured in practice, often as a result of overcrowding and due to the fact that detention warrants sometimes do not state the age of detainees. The Government is urged to take measures to ensure that detention of children is used as a last resort and for the shortest possible period of time and reviewed on a regular basis with a view to withdrawing it, and amend the Juvenile Justice Act to provide for, and promote in practice, the use of alternative measures to detention, such as diversion, probation, mediation, counselling, or community service, wherever possible.

60. The Children's Act 1998 prohibits "cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanises or is injurious to the physical and mental well-being of a child," but allows for a degree of "reasonable" and "justifiable" punishment of children in the home and in alternative care settings, as does the Education Act (1961), the Ghana Education Code of Discipline in school settings. In 2014, the Government confirmed the widespread and 'lawful' use of corporal punishment. The Special Rapporteur calls on the Government to amend the relevant provisions as a matter of urgency and explicitly prohibit all forms of corporal punishment in all settings, and educate the authorities and the public so that the practice of caning, in particular, is eradicated.

61. The Rapporteur congratulates the Government for ratifying the Optional Protocol on the Involvement of Children in Armed Conflict in December 2014, and urges the expedited ratification of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Although the Government has undertaken welcome legislative reforms to broaden the scope of persons responsible for female genital mutilation (FGM), which increases sanctions for those who commit the harmful practice, in 2015 the CRC reported its prevalence in rural communities, despite its criminalization.

## IV. Mental Healthcare Practices and Services

62. The Special Rapporteur found that challenges facing the mental healthcare system and conditions in psychiatric institutions and prayer camps remain the same as during the last visit. Lack of capacity, whether in terms of budgetary support, infrastructure, mental health professionals, medication, and even food, result in either dreadfully inadequate or nonexistent provision of services, with an estimated 98% treatment gap. At the same time, human rights abuses against persons with psychosocial disabilities – particularly in the private or "informal" sector of prayer camps or other traditional healing centers – continues, along with public stigmatization and discrimination, and the continued low priority assigned to mental healthcare by the Government. The Special Rapporteur was nevertheless impressed by the commitment displayed by the leadership of the Mental Health Authority Board (Board) and by its ambitious plans in the face of difficult constraints. However, ongoing efforts to regulate, control, and supervise health-care practices, including monitoring the prayer camps and other privately-run institutions; to recruit and train more mental healthcare professionals; and to improve the quality of care provided, including in terms of food and shelter, must be dramatically intensified and backed-up by adequate funding, resourcing, and capacity-building, if they are to result in meaningful changes.

63. In its 2015 annual report, the Board noted the troubling deterioration of services against the increasing number of patients. Capacity for mental healthcare services remains vastly reduced, with only 14 reported practicing psychiatrists and 1,600 psychiatric nurses serving a population of nearly 26 million. The country's three psychiatric hospitals are all located in the coastal belt in the south of the country, and few options for care exist outside these facilities. The Special Rapporteur welcomes information that the Board has begun collaborating with mental health training institutions, notably Nurses Training Colleges, to facilitate the training of psychiatric nurses and community mental health workers, and that 400 individuals have been trained to date. Nevertheless, their numbers remain very low, and regional distribution is skewed, with the Board warning that the constraints posed by inadequate funding and human resources make it impossible to extend mental health services to all districts for the short- to medium-term future. It reported that there is only one psychiatrist serving the Northern, Upper East, and Upper West regions.

## A. Mental Health Act and Mental Health Authority

64. The Special Rapporteur regrets that the Mental Health Act (846) of 2012 (Act) which presumes the "incapacity" of persons with mental disabilities, has not been amended to bring provisions concerning mental capacity and involuntary admission and treatment in line with international standards as outlined in the Convention on the Rights of Persons with Disabilities (CRPD).

65. The Act established the Mental Health Authority as an agency under the Ministry of Health. The Special Rapporteur welcomes the fact that the Board was inaugurated on November 19, 2013, immediately after his first visit to Ghana. However, he expresses concern that the Legislative Instrument (LI) designed to enforce and implement the Act has not yet been approved and enacted into law. The Special Rapporteur learned that ongoing inertia in this regard, including a failure to allocate funding to the Authority, has largely precluded the operationalization and translation of the Act into meaningful achievements on the ground.

66. The Special Rapporteur is nonetheless encouraged by the progress achieved by the Board with funding provided by the United Kingdom's Department for International Development (DFID). Efforts to decentralize the system by setting up Regional and District Mental Health Sub-Committees, some of which have already been inaugurated, are welcome. In addition, the Special Rapporteur was informed of plans to set up regional Visiting Committees under the Authority, which would undertake regular visits to all mental healthcare facilities, including prayer camps; and a Mental Health Review Tribunal, which would be empowered *inter alia* to examine the legality of detention and complaints regarding abusive treatment and detention conditions in both psychiatric institutions and prayer camps – and to issue adequate penalties, including fines and prison sentences. It is essential for the Review Tribunal to cover persons deprived in privately-run institutions, to provide access to legal aid, and to establish an accessible complaint mechanism and remedies.

67. The Special Rapporteur welcomes the Board's ambitious plans for the future that include the establishment of 45- to 50-bed Regional Psychiatric Hospitals and psychiatric wings in all regional hospitals and dedicated beds in medical wards in district hospitals, and halfway homes, the establishment of Mobile Crisis Intervention Teams, and a telephone hotline, and urges the Government to deliver on its commitments to provide adequate funding and other resources to assist the Board and its partners to capitalize on this recent momentum. The Board's collaboration with local NGOs, like BasicNeeds Ghana, local associations, development agencies, and other local and international organizations continues to be essential, particularly with regards to efforts to promote deinstitutionalization and foster alternative community-based forms of treatment and support. In addition, the Board's efforts to combat discrimination, raise public awareness, and reduce stigmatization around mental health issues, particularly at the community level, ought to be supported, and education and sensitization must reach the public as well as health practitioners, prayer camp leaders and traditional healers, law enforcement personnel, the judiciary, and other public actors.

## B. Psychiatric Institutions

68. The Special Rapporteur visited the Accra Psychiatric Hospital, and was encouraged by the frank exchange and unfettered access provided by the Chief Psychiatrist. Regrettably, low levels of staffing, inadequate financing and resources, and deplorable conditions continue to give rise to inhumane treatment and human rights abuses against patients. While the Hospital, which was built in 1906, has an official capacity of 600, it has

in recent years held up to 1200 patients at one time. The Special Rapporteur acknowledges information that since 2011, about 700 patients have been released under a "mass repatriation exercise," but is dismayed by continued overcrowding, and by reports that among those released were patients who continued to be detained despite having "long recovered," and whose relatives had not seen them for decades. It was also reported that as part of "Operation Clear the Streets" and the "Restoration of Dignity" projects, small groups of persons suffering from psychosocial disabilities have been removed from the streets, treated in hospital, and released in the care of their families. The Special Rapporteur recalls that coercive and non-consensual measures, including the restraint and seclusion of persons with psychosocial disabilities, must be prohibited, except to prevent harm to the patient and to others, and only for the limited time and using the measures strictly required for that purpose; non-consensual treatment, such as forced medication and ECT, should otherwise also be prohibited.

69. During his visit the Special Rapporteur observed that patients in wards moved around freely in the yards, and that beds and mattresses had to be set up outdoors due to overcrowding. The special ward for forensics, with a reported capacity for 80 persons, housed 138 individuals, of which 102 were forensic patients, with the rest having been removed from the general wards for behaving aggressively or on a voluntary basis. In this ward, one person was locked in a seclusion room, which saw out onto the open yard. Restraints, including chemical restraints, are applied occasionally, with minimal levels of force reportedly used only in situations when needed on an aggressive individual. Electroshock therapy (ECT) was not being practiced at the time of the visit due to broken equipment and the lack of capacity for administering full anesthesia; nurses are being trained in administration of anesthesia. The Special Rapporteur reiterates his concerns about the potential future use of ECT and the feasibility of obtaining free and informed consent, as required by international standards.

70. Chronic shortages of recent-generation psychotropic medication, leading to inadequate treatment, emerged as a chief complaint by both physicians and civil society advocates, who complained of inadequate funding, bureaucratic bottlenecks, poor reporting mechanisms, and cumbersome procurement processes. Providers reported having to supplement Government supplies, when possible, by ordering psychotropic medications as part of donations for the treatment of other ailments. The Ministry of Health confirmed frequent shortages of medications and the need for physicians to improvise solutions. It is essential that the State guarantees the provision of medicines in line with its international obligations with respect to the right to health and the prohibition of torture and other ill-treatment. The Special Rapporteur also heard about food shortages, which led to psychiatric hospitals having to threaten closure before receiving emergency food supplies from the Government.

## C. Prayer Camps

71. Privately-owned and -run prayer camps continue to operate throughout Ghana, with a majority of Ghanaians resorting to prayer camp leaders and traditional healers to seek treatment for relatives suffering from an array of ailments, in particular psychosocial disabilities, which are believed to have "spiritual" causes. Rampant human rights abuses continue with impunity at prayer camps, including the non-consensual admission and "treatment" of children and adults, inhumane practices amounting to torture, such as shackling, prolonged chaining and restraint, and mandatory fasting.

72. The Special Rapporteur visited the Edumfa (Heavenly Ministries) Prayer Camp. The camp's personnel insisted that chaining and shackling did not occur, and offered the Special Rapporteur a guided tour of the premises. However, the delegation discovered a locked

building where rows of male patients were chained to the walls and floors of their concrete cells, which were laid out like cattle stalls. Although employees refused to unlock the building, the Special Rapporteur was able to communicate with persons inside through the locked metal grates. Those inside pled for their release, with one individual reporting having been chained and locked-away for 4 months, and another for two weeks. Another person was found chained to the ground just outside the building, fully exposed to the sun and other elements. The Special Rapporteur recalls that these practices unequivocally amount to torture even if committed by non-State actors under conditions in which the State knows or ought to know about them. The reasons cited by the prayer camp authorities for the practices of chaining and shackling, such as preventing escape and aggressive behavior, do not fall within the scope of exceptions for temporary measures recognized by international standards. Local physicians and civil society also report cases of persons being shackled for years to "wait for God," and released only at the whim of the camps' leadership. In one case, it is reported that a chained man died after being bitten by a snake. Other abuses reported at prayer camps including beatings and other ill-treatment under the guise of 'exorcisms,' denial of food and treatment, being forced to ingest potent "healing" herbs, and verbal abuse.

73. In a separate building at Edumfa, the Special Rapporteur observed a number of women and children who, while not chained, were held in concrete cells and subjected to a prayer and fasting regime, which can reportedly last for up to two weeks. At least one child appeared to be under 10 years of age, while one person appeared to suffer from a neurological disorder requiring specialist care. In its June 2015 concluding observations on Ghana (CRC/C/GHA/CO/3-5), the UN Committee on the Rights of the Child confirmed that children with disabilities, especially those with mental disabilities, are victims to a higher extent of abuse, violence, stigma and exclusion, and that children with disabilities confined in psychiatric institutions and prayer camps are being subject to inhumane and degrading treatment due to cultural and traditional beliefs. Extremely disturbing reports that children with disabilities are sometimes sacrificed in rituals performed by "witch doctors" or "fetish priests" have also emerged.

74. Neither a lack of resources nor traditional practices or the fact that families tend to approach prayer camps voluntarily, may be invoked to excuse the perpetuation of practices amounting to torture and other ill-treatment, and the State has an urgent obligation to address these practices and replace them with an approach informed by science and the principles of free and informed consent, dignity, freedom from arbitrary detention and right to be free from torture and other ill-treatment. The Special Rapporteur heard of the development of a pilot project to build units to hold individuals in the Nyakumasi Prayer Camp, as an alternative to widespread chaining. While the need to develop alternatives to chaining is paramount, the seclusion and isolation of persons in cells would not improve their treatment or conditions, and assurances by Board authorities that this practice would not occur are appreciated.

75. The Special Rapporteur welcomes the Board's approach of engaging with prayer camps to combat abusive practices and to promote accountability, and advocates for the establishment of an oversight board tasked exclusively with monitoring prayer camps and other privately-run treatment centers where persons are held involuntarily and ensuring that existing laws and proper safeguards are implemented. The Board reported some progress in taking an inventory of prayer camps and traditional healing centers throughout Ghana; deploying psychiatric nurses to at least one prayer camp to help administer medication; and plans to organize trainings for prayer camp leaders on the human rights of persons with disabilities, such as one held in Sunyani, Brong-Ahafo Region, last year. The Special Rapporteur heard that there is some willingness on the part of prayer camp leaders to work with authorities, and urges continued dialogue, with a view to ultimately shutting down prayer camps or at least eliminating their most harmful practices.

# V. Conclusions and recommendations

76. **The Special Rapporteur welcomes commitment and determination displayed by the Government to reform aspects of the criminal justice system and to improve prison conditions with a view to enhancing the fundamental human rights of its citizens. The development of initiatives such as the "Justice for All" programme, Project Efiase, the Ghana Sentencing Guidelines, is welcome, and their implementation should be vigorously pursued. The Government must also make a concerted effort to follow-through on its various commitments with regards to the legal and institutional framework to combat and prevent torture and other ill-treatment by, *inter alia*, ratifying the OPCAT and establishing an NPM, introducing the offence of torture in national criminal legislation; strengthening legal safeguards against torture and other ill-treatment; implementing measures designed to improve judicial management and case disposition; and undertaking the comprehensive reforms contemplated by the GPS's strategic plan with regards to conditions of detention and the delivery of services in prisons. The Special Rapporteur remains particularly concerned about allegations of the use of torture and other ill-treatment during arrest, and interrogation, and police custody, and calls on the Government to ensure that complaint procedures and mechanisms are adequate and lead to accountability. The Special Rapporteur welcomes the establishment of the Mental Health Authority Board and its efforts to improve mental healthcare practices in both the formal and informal sectors, in the face of severe challenges, and urges the Government to support these efforts through adequate funding, resourcing, and capacity-building. He observes that some practices in private prayer camps, such as shackling and forced fasting, amount to torture and other ill-treatment, and reminds the Government of its fundamental obligation to absolutely prohibit and eradicate these practices, in line with international human rights obligations.**